



1           2.     I am admitted to practice in the States of Texas and New York.

2           3.     I am counsel for the Plaintiffs in the underlying action.

3           4.     I make this declaration to the best of my knowledge, information, and  
4 belief of the facts stated herein.

5           5.     I have personal knowledge of the following facts and, if called to  
6 testify, I could and would testify competently to the matters stated herein.

7           6.     Attached hereto as **Exhibit A** is a true and correct copy of the Subpoena  
8 issued to Microsoft Corporation (the “Subpoena”).

9           7.     Attached hereto as **Exhibit B** is the letter served on Microsoft with the  
10 Subpoena, enclosing the declaration of David Flynn dated April 30, 2024 consenting  
11 to the production of his Skype data to Plaintiffs or Kneupper & Covey PC.

12           8.     Attached hereto as **Exhibit C** is the proof of service of the Subpoena  
13 on Microsoft dated June 26, 2024.

14           9.     Attached hereto as **Exhibit D** is a true and correct copy of screenshots  
15 of Skype messages produced to Kneupper & Covey by David Flynn.

16           10.    Attached hereto as **Exhibit E** is a true and correct copy of screenshots  
17 of Skype messages produced to Kneupper & Covey by David Flynn.

18           11.    Attached hereto as **Exhibit F** is a true and correct copy of a document  
19 of Skype messages produced to Kneupper & Covey by David Flynn.

20           12.    Attached hereto as **Exhibit G** is a true and correct copy of Microsoft’s  
21 Objections and Responses to the Subpoena, dated July 12, 2024.

22           13.    On August 20, 2024, the undersigned attended a meet & confer via  
23 video and teleconference with counsel for Microsoft in an attempt to resolve  
24 Microsoft’s objections. During the meet & confer, the undersigned explained the  
25 underlying action pending in the United States District Court for the Middle District  
26 of Florida including the relevant facts of the underlying action, and described the  
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1 Plaintiffs' need for Microsoft's documents. Counsel for Microsoft noted its position  
2 that the Subpoena did not reduce the burden on Microsoft, that Microsoft did not  
3 have access to a subscriber's deleted messages, and that Microsoft required Mr.  
4 Flynn's consent to disclose subscriber data under the Electronic Communications  
5 Privacy Act. Counsel for Microsoft requested additional clarification on why the  
6 relevant communications could not be obtained from Mr. Flynn. The undersigned  
7 explained the need to obtain from Microsoft a complete record of Mr. Flynn's Skype  
8 communications and agreed to provide further detail in a subsequent meet and  
9 confer.

10 14. On August 27, 2024, the undersigned attended a further meet & confer  
11 with counsel for Microsoft via video and teleconference with counsel for Microsoft  
12 in an attempt to resolve Microsoft's objections. The undersigned explained that,  
13 because of the manner in which Mr. Flynn had produced the Skype messages,  
14 Plaintiffs' counsel had reason to believe that the Skype messages produced by Mr.  
15 Flynn were not complete, and that Mr. Flynn may be unable to produce a complete  
16 set of messages. The undersigned also explained that Mr. Flynn may have  
17 participated in group chats with individuals that would be relevant to the underlying  
18 action from which he had been removed and therefore could not access, but that  
19 nonetheless continued to exist.  
20

21 15. On August 29, 2024, the undersigned provided such explanation to  
22 counsel for Microsoft in writing.

23 16. On September 4, 2024, counsel for Microsoft informed the undersigned  
24 that Microsoft would be standing on its objections and would not produce documents  
25 in response to the Subpoena.

26 17. Microsoft has not produced documents responsive to the Subpoena.  
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1 I, Anthony Sampson, declare under the penalty of perjury under the laws of  
2 the United States that the foregoing is true and correct.

3  
4 Dated: October 2, 2024

By: 

Anthony C. Sampson, Esq.

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*Attorneys for Plaintiffs*

**CERTIFICATE OF SERVICE**

I hereby certify that on October 2, 2024, I caused the foregoing Declaration of Anthony Sampson in Support of the Motion to Compel Compliance With Subpoena for Production of Documents by Microsoft Corporation to be electronically transmitted to the Clerk's Office using the CM/ECF System for filing.

Shortly following the electronic filing of this document, a copy of the foregoing will also be sent via first-class mail to Microsoft and by email Microsoft's counsel.

By: /s/ Caitlin Skurky

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